

February 3, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON
APPLICATION FOR PRELIMINARY PLAT.**

SUBJECT: Department of Development and Environmental Services File No. **L97P0025**

KARA CREST
Plat Application

Location: East of 100th Avenue South and north of Southeast 220th Street

Applicant: Lakeridge Development, Inc.
P.O. Box 146
Renton, WA 98057

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	June 13, 1997
Notice of complete application:	July 10, 1997

EXAMINER PROCEEDINGS:

Hearing Opened:	January 27, 1998
Hearing Closed:	January 27, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Wells, protection
- Drainage
- Road safety and design

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer:	William & Jennifer Ergish 21908 – 100th Avenue SE Kent, WA 98031
	Juris K. & Valija Sprogis 10005 SE 216th Street Kent, WA 98031
Agent:	Lakeridge Development Inc. PO Box 146 Renton, WA 98057
Engineer:	David Casey Casey Engineering 15 South Grady Way, #400 Renton, WA 98057
Location:	East of 100th Avenue South and north of SE 220th Street
STR:	8-22-5
Zoning:	R-6-P
Acreage:	9.80 acres
Number of Lots:	48
Density:	4.9 dwelling units per acre
Typical Lot Size:	5,000 to 9,000
Proposed Use:	Single-family detached homes
Sewage Disposal:	City of Kent
Water Supply:	Soos Creek Water & Sewer District
Fire District:	City of Kent
School District:	Kent
Complete Application Date:	July 10, 1997

2. **Proposal.** William and Jennifer Ergish, together with Juris K. and Valija Sprogis, represented by Lakeridge Development, Inc. and Casey Engineering, all of whom are referred to hereinafter as the “Applicant”, propose to subdivide a 9.8-acre parcel into 48 single-family residential building lots. Lot sizes range from approximately 5,000 to 9,000 square feet. The Applicant proposes a development density of 4.9 acres. (This proposal is governed by the 1994 King County Comprehensive Plan, which designates this area as “Urban Residential” at four to twelve units per acre.) The proposed development is illustrated by the Applicant’s proposed plat map, contained in this hearing record as Attachment 1 of the Preliminary Report to the Hearing Examiner dated January 27, 1998 (Exhibit No. 2), prepared by the Department of Development and Environmental Services (hereinafter, the “Department” or “DDES”). See also Exhibit Nos. 7, 10, 14A, 14B, and 15.

3. **SEPA.** An Environmental Impact Statement is not required. On December 2, 1997, the Department issued a threshold determination of non-significance (DNS) for the proposed development. This determination, based on available environmental documents, concluded that the proposed development would not cause probable significant adverse impact on the environment. No agency, person or tribe offered adverse comment or appeal from that determination.
4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Kara Crest, subject to 19 conditions, as modified during the hearing (stated on pages 9 through 14 of the Department's Preliminary Report to the Examiner (Exhibit No. 2); and further subject to the following additional conditions of final plat approval:
 - A. **Recommended Condition No. 20.** The Applicant shall comply with the P-suffix conditions stated in Section M of the Department's Preliminary Report to the Examiner.

These conditions address significant tree retention and clearing/grading restrictions.
 - B. **Recommended Condition No. 21.** The Applicant shall provide adequate protection to the wells on property adjacent to the site in accordance with current State Department of Ecology requirements.

This recommended condition is discussed further in Finding No.6.B, below.
 - C. **Recommended Condition No. 22.** Abandon or cap the well that is located on the subject property, pursuant to, and consistent with, State Department of Ecology standards.
 - D. **Recommended Condition No. 9d.** If the construction of the emergency access requires the Applicant to obtain offsite easements, and the easements cannot be obtained, then this condition will be waived. Written documentation shall be provided to King County for any easements that cannot be obtained.

Recommended Condition No. 9d, as contained in the Department's Preliminary Report to the Examiner, requires construction of a "second access" to/from the subject property to be designated as emergency access. Having heard questions from the Examiner and testimony from the Applicant, the Department recommends the additional Recommended Condition No. 9d language quoted in this finding.
 - E. **Recommended Condition No. 16.** Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.

The Department agrees to this modification suggested by the Examiner as a means of providing the Applicant greater flexibility with regard to providing suitable recreational space. This modification will allow some recreational space to be placed in an abutting contemplated plat while at the same time retaining the "tot lot" within the boundaries of Kara Crest.
5. **Applicant accepts recommendation.** As described in Finding No. 4, above, the Applicant accepts the Department's final recommendation.

6. **Issues Review.** The following sub-paragraphs identify relevant findings regarding those issues or concerns raised in the public hearing.
- A. **Secondary (emergency) access.** King County Road Standards (KCRS) Section 2.20 contain what is known familiarly as the “100-lot rule”; a rule that plats containing more than 100 lots must provide a second access. Kara Crest proposes to obtain its principal access via 100th Avenue SE by extending that road in a manner which complies with applicable standards. The Applicant proposes, and the Department supports, obtaining the required secondary access via SE 220th Street, which forms the south boundary of Kara Crest and from there extends eastward to 103rd Place SE. Substantial improvements will be required to make this emergency access/exit available. These improvements may require the acquisition of easements. Hence, the additional language described in Finding No. 4.D, above. The Department and the Applicant agree with this solution. No other person objects.
 - B. **Well protection.** An owner located south from, but not abutting, the Kara Crest property, obtains domestic water from his own well. He expresses concern that the proposed development may disrupt the quality or quantity of water he obtains. He asserts that the aquifer drains southward and westward toward his property. The Department and Applicant agree that the Applicant should be required to satisfy Washington State Department of Ecology well protection standards. The concerned neighboring property owner doubts whether satisfying the DOE standard will protect his well.
 - C. **Surface drainage.** The entire controlled drainage emanating from Kara Crest will be piped across Tax Lot 130, which lies directly west of the Kara Crest property, across 100th Avenue SE right-of-way, facing the southern half of the Kara Crest property. Another property owner, owning Tax Lot 127, expresses concern regarding a perceived potential increase in drainage from Kara Crest. However, no surface flow will be directed toward that property.
 - D. **Recreation.** The Applicant may seek to move and consolidate a portion of the required recreational open space from this plat to Tax Lot 130 located directly west of the subject property. The Department and the Applicant agree to the language indicated in Finding No. 4.E. This language will require full compliance with County standard, while at the same time allow the Applicant the design flexibility it seeks.
7. **Department Report Adopted .** Except as noted above, the facts and analysis contained in the Department of Development and Environmental Services Preliminary Report dated January 27, 1998 are correct and are incorporated here by this reference. A copy of the

Department of Development and Environmental Services report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. The issues or concerns addressed through the public review of this application are well satisfied by the final plat approval conditions described in Finding No. 4, above, and stated as recommended Condition Nos. 9d, 16, and 20 through 22, below. These recommended conditions not only comply with applicable policies, standards and ordinances, but also resolve nearly all controversy in this proposal. The southerly neighborly property owner still expresses concern regarding the adequacy of well protection. However, this hearing record contains no evidence or citation of authority which would require a more stringent measure than recommended Condition No. 21.
2. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Department of Development and Environmental Services, it is concluded that approval of this subdivision as set forth below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
3. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
4. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
5. The conditions recommended in the Department of Development and Environmental Services Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

The preliminary plat of KARA CREST is GRANTED preliminary plat approval; SUBJECT to compliance with the following conditions of final plat approval.

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density (and minimum density) requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification, or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following notes shall be shown on the final recorded plat:

"All building downspouts, footing drains and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The Applicant applied for and was granted a stormwater diversion variance (File Number L97V0110). This variance requires more restrictive stormwater release rates from the proposed detention facility. The variance requires that the release rate meet the requirements of the City of Kent "Hillside Criteria" or the King County Stream Protection Standard, whichever is most restrictive. All approval conditions for the variance shall be met and shown on the engineering plans at engineering plan submittal.
9. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards:
 - a. The internal roads in the subdivision, SE 218th Place/102nd Place SE and 100th Place SE/SE 219th Place, shall be improved at a minimum to the urban subaccess road standard.
 - b. FRONTAGE: The plat frontage along 100th Avenue South is within the City of Kent. This frontage shall therefore be improved according to the City of Kent Road Standards. (See letter to Dave Casey from City of Kent dated 4/16/97). City of Kent approval is required for the 100th Avenue South frontage improvement.

- c. FRONTAGE: The plat frontage along SE 220th Street shall be improved to the urban subcollector one-half street standard.
 - d. OFFSITE: Emergency access shall be provided from the east plat boundary going east to the existing SE 220th Street. This improvement may require regrading or realignment of a portion of the existing SE 220th Street access road to the City of Kent Garrison Creek Detention Pond.

If the construction of the emergency access requires the Applicant to obtain offsite easements, and the easements cannot be obtained, then this condition will be waived. Written documentation shall be provided to King County for any easements that cannot be obtained.
 - e. Modifications to the above road conditions may be considered by King County, pursuant to the variance procedure in the King County Road Standards (KCRS 1.08).
- 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: 1) pay the MPS fee at final plat application, or 2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, a note shall be placed on the face of the plat stating: "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid". If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 - 13. There shall be no direct vehicular access to or from 100th Avenue South from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
 - 14. The 10- to 15-foot buffer from the top of the slope shall be placed within a Sensitive Area Tract rather than on a lot. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and

protection of plant and animal habitat. The sensitive area tract/ sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.
 - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).
18. Street trees shall be provided as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along 100th Avenue South. Spacing may be modified to accommodate sight distance requirements for intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County

Department of Transportation or City of Kent determines that trees should not be located in the street right-of-way.

- c. If King County or Kent determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County or Kent has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released by DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
19. A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
20. The Applicant shall comply with P-suffix conditions stated in Section M of the DDES Preliminary Report to the Examiner (Exhibit No. 2):
- SCP-P7 significant tree retention
SCP-P3 clearing and grading
- OR:
- SO-220 significant tree (SPO)
SC-P3 clearing and grading
KCC 16.82.150.D seasonal clearing and grading
- (Applicant's choice, due to vested application date.)
21. The Applicant shall provide adequate protection to the wells adjacent on property adjacent to the site in accordance with current State Department of Ecology standards.

22. The existing well onsite shall be abandoned pursuant to current State Department of Ecology standards.

ORDERED this 3rd day of February, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 3rd day of February, 1998, to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before February 17, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before February 24, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 27, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97P0025 – KARA CREST:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Gary Kohler, Bruce Whittaker, Paulette Norman, David Casey, and Brett Monroe.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L97P0025
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the Examiner for the January 27, 1998 Public Hearing
Exhibit No. 3	Application, dated June 13, 1998
Exhibit No. 4	Environmental Checklist, dated May 7, 1997, received June 13, 1997
Exhibit No. 5	Declaration of Non-Significance dated December 2, 1997
Exhibit No. 6	Affidavit of Posting indicating December 23, 1997 as date of posting and December 26, 1997 as date affidavit was received by DDES
Exhibit No. 7	Plat map received June 13, 1997
Exhibit No. 8	Land Use map 614W, 613E, 618E, 619W

Exhibit No. 9	Assessor's map SE 7-22-5 and SW 8-22-5
Exhibit No. 10	Conceptual Drainage Plan received June 13, 1997
Exhibit No. 11	Downstream Drainage Analysis
Exhibit No. 12	Geotechnical Evaluation, April 14, 1997
Exhibit No. 13	E-mail from Margaret Goff, received January 27 1997
Exhibit No. 14A	Kara Crest Profile
Exhibit No. 14B	Kara Crest Cross Section
Exhibit No. 15	Kara Crest Plan View showing location of cross sections
Exhibit No. 16	Letter from David Casey to Gary Kohler dated January 22, 1998
Exhibit No. 17	P-Suffix Conditions
Exhibit No. 18	New proposed Condition No. 21
Exhibit No. 19	Addition to proposed Condition No. 9d

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